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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

SOVEREIGN ASSETS LTD.,

## Debtor in Foreign Proceeding

## Chapter 15

Bankr. Case No.: 14-13009 (SCC)

## NOTICE OF APPEAL

Abraham Poznanski (“**Poznanski**”), by his undersigned counsel, hereby appeals to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. § 158(a) and Rules 8001(a) and 8002(a) of the Federal Rules of Bankruptcy Procedure, from the *Order Granting (1) Recognition of Foreign Main Proceeding; (2) Recognition of Petitioners as Authorized Foreign Representatives; and (3) a Preliminary Injunction*, dated December 17, 2014 (Docket No. 26) (the “**Order**”), a copy of which is annexed hereto as **Exhibit A**.

The Parties to the Order appealed from, and the names, addresses, and telephone numbers of their respective attorneys, are as follows:

<u><b>Party</b></u>	<u><b>Attorney</b></u>
<b>Appellant:</b> Abraham Poznanski	<b>MCGRAIL &amp; BENSINGER LLP</b> Menachem M. Bensinger  676A Ninth Avenue # 211 New York, New York 10036 Telephone: (718) 434-2676 Facsimile: (718) 228-7717
<b>Appellee:</b> Advs. Guy Gissin and Rami Kogan, in their capacity as Special Administrators of Sovereign Assets Ltd.	<b>GOLENBOCK EISEMAN ASSOR BELL &amp; PESKOE LLP</b> Michael S. Devorkin Marc D. Rosenberg  437 Madison Avenue, 35th Floor New York, New York 10022 Telephone: (212) 907-7300 Facsimile: (212) 754-0777
<b>Other Party:</b> <sup>1</sup> MSCI 2007-HQ13 Merritt Crossing LLC	<b>PERKINS COIE LLP</b> Gary F. Eisenberg  30 Rockefeller Plaza, 22nd Floor New York, New York 10112 Telephone: (212) 262-6902 Facsimile: (212) 977-1632
<b>Other Party:</b> Saul Tawil, David Tawil, Victor Tawil, Aneil LIPP, LLC, Jack Franco, Sonja Cabasso, Albert Maleh, Mark Manela, Ezra I. Shehebar, Gabriel Shehebar, Jackson Group LLC, Harold Jarnicki, Michael Gad and Bergman Family LP, individually and derivatively on behalf of Nashville Properties, LLC	<b>MARKEWICH AND ROSENSTOCK LLP</b> Lawrence M. Rosenstock  18 East 48th Street Tenth Floor New York, New York 10017 Telephone: (212) 542-3158 Facsimile: (212) 308-7780

<sup>1</sup> Those parties designated "Other Party" on this notice of appeal are parties that signed the Order to indicate their "approval as to form," but are neither the appellant nor appellee in this appeal.

Dated: December 30, 2014  
New York, New York

MCGRAIL & BENSINGER LLP

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# EXHIBIT A

UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK

In re:

SOVEREIGN ASSETS LTD.,

Debtor in Foreign Proceeding.

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Chapter 15

Case No. 14-13009

**ORDER GRANTING (1) RECOGNITION OF  
 FOREIGN MAIN PROCEEDING; (2) RECOGNITION  
 OF PETITIONERS AS AUTHORIZED FOREIGN  
REPRESENTATIVES; AND (3) A PRELIMINARY INJUNCTION**

WHEREAS, this Court has considered the Verified Petition under Chapter 15 of title 11 of the United States Code (the “**Bankruptcy Code**”), for Recognition of Foreign Main Proceeding (the “**Verified Petition**”) and the Motion for a Preliminary Injunction, of Adv. Guy Gissin and Adv. Rami Kogan, solely in their capacity as Special Administrators (“**Petitioners**” or the “**SAL Administrators**”) of Sovereign Assets Ltd. (“**SAL**” or the “**Debtor**”), which is the debtor in a liquidation proceeding pending in District Court, Tel Aviv-Jaffa, Israel, Case No. 31623-03-14 (the “**SAL Liquidation Proceeding**”), and the papers in support and in opposition thereto; and the Court held a hearing on the Verified Petition on December 3 and 4, 2014, at which arguments were presented and the live testimony of Adv. Guy Gissin and various exhibits were admitted into evidence; and upon the request contained in the Verified Petition to approve the notice and manner of service of the Verified Petition and related documents, to recognize the SAL Liquidation Proceeding as a foreign main proceeding, and to recognize the Petitioners as authorized foreign representatives;

WHEREAS, on October 31, 2014, the Court issued a Temporary Restraining Order, which has been extended by consent to the date hereof, and which among other things, stayed the Tawil Action (defined below) and operated to toll the time of parties (i) to file a motion in the Tawil Action for reargument or reconsideration of the Decision and Order of the Supreme Court dated September 29, 2014, denying SOVA Management, LLC's cross-motion for summary judgment ("**Supreme Court Order**"); and (ii) to file a notice of appeal from the Supreme Court Order;

WHEREAS, (i) on October 20, 2014, a notice of entry of the Supreme Court Order was filed, which allowed 30 days to file a notice and to move for reargument or reconsideration; (ii) on October 31, 2014, plaintiffs in the Tawil Action filed a motion in the Tawil Action for reargument or reconsideration of the Supreme Court Order; and (ii) on November 17, 2014, plaintiffs in the Tawil Action filed a notice of appeal of the Supreme Court Order, which also had the effect of extending to November 27, 2014, the time of defendants in the Tawil Action to file a notice of appeal;

WHEREAS, at the conclusion of the hearing on December 4, 2014, the Court orally on the record made its findings of fact and conclusions of law, and "so-ordered" the record, thereby granting the relief sought in the Verified Petition and the Motion for a Preliminary Injunction, which has now been transcribed and an uncorrected transcript is annexed hereto as Exhibit 1;

WHEREAS, for the reasons set forth in Exhibit 1, the SAL Administrators are entitled to all relief provided pursuant to section 1520 of the Bankruptcy Code;

WHEREAS, for the reasons set forth in Exhibit 1, the SAL Administrators are entitled to additional relief pursuant to sections 1507 and 1521 of the Bankruptcy Code, including but not limited to (i) staying the continuation of an individual action or proceeding concerning the

debtor's assets to the extent they have not been stayed under section 1520(a) pursuant to 1521(a)(1); (ii) suspending the right to transfer, encumber or otherwise dispose of assets of the debtor to the extent this right has not been suspended under 1520(a) pursuant to 1521(a)(3); (iii) providing for the examination of witnesses and the taking of evidence or the delivery of information regarding assets of the debtor pursuant to 1521(a)(4); (iv) entrusting the administration or realization of all or part of the Debtor's assets within the territorial jurisdiction of the U.S. to the foreign representative pursuant to 1521(a)(5); and (v) extending relief granted under section 1519(a) pursuant to 1521(a)(6).

**BASED ON THE FOREGOING, IT IS HEREBY:**

**ORDERED**, that findings of fact and conclusions of law set forth in Exhibit 1 are so-ordered, and the SAL Liquidation Proceeding be and hereby is granted recognition pursuant to section 1517(a) of the Bankruptcy Code; and it is further

**ORDERED**, that the SAL Liquidation Proceeding be and hereby is granted recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code; and it is further

**ORDERED**, that the SAL Administrators are recognized as authorized foreign representatives of SAL; and it is further

**ORDERED**, that all relief afforded a foreign main proceeding pursuant to section 1520 of the Bankruptcy Code be and hereby is granted to the SAL Administrators, including without limitation, the application of section 362 of the Bankruptcy Code; and it is further

**ORDERED**, that additional relief, pursuant to sections 1507 and 1521(a)(4), providing for the examination of witnesses and the taking of evidence or the delivery of information

regarding assets of the Debtor to the SAL Administrators, with all of the rights under Bankruptcy Rule 2004 is is granted; and it is further

**ORDERED**, that, except as hereinafter provided in this Order with respect to the Tawil Action (as defined below), additional relief, pursuant to sections 1507 and 1521(a)(1), staying the continuation of individual actions or proceedings concerning the debtor's assets (which, subject to other provisions of this Order indicating that the Court has not made any findings of fact or reached any conclusions of law with respect to ownership of assets that SAL alleges it owns, shall include its interests in its subsidiaries, including but not limited to, SOVA Holdings, Inc., SOVA Management, LLC, SOVA Merritt Holdings, LLC, and SOVA Merritt, LLC (collectively, "**SAL's Assets**"), to the extent they have not been stayed under section 1520(a) is granted; and it is further

**ORDERED**, that additional relief, pursuant to sections 1507 and 1521(a)(3), suspending the right to transfer, encumber or otherwise dispose of assets of the Debtor to the extent this right has not been suspended under 1520(a) is granted; and it is further

**ORDERED**, that additional relief, pursuant to sections 1507 and 1521(a)(5), entrusting the administration or realization of all or part of the Debtor's assets within the territorial jurisdiction of the U.S. to the foreign representative is granted; and it is further

**ORDERED**, that the provisional relief which the Court has previously granted the SAL Administrators under section 1519 shall remain in full force and effect, except as otherwise provided in this Order with respect to the Tawil Action (as defined below), as follows:

- a. the protections of sections 361 and 362 of the Bankruptcy Code apply to SAL and SAL's Assets;



- b. Adv. Gissin and Adv. Kogan are established as the exclusive representatives of SAL with full authority to administer SAL's Assets and affairs in the United States, including, without limitation, making payments on account of SAL's prepetition and postpetition obligations, until further order of this Court;
- c. Adv. Gissin and Adv. Kogan are entrusted with the administration and realization of all or part of SAL's Assets in the United States, including, without limitation, SAL's Assets in the United States that may have been transferred to third parties in the United States to the extent that SAL has an interest in such assets, until further order of this Court;
- d. all persons and entities are enjoined from seizing, exercising control over, attaching, enforcing and/or executing security interests, liens or judgments against SAL's Assets in the United States or from transferring, encumbering, or otherwise disposing of or interfering with SAL's Assets or agreements in the United States without the express consent of the SAL Administrators;
- e. all persons and entities are enjoined from commencing, or continuing, including the issuance or employment of process of, any judicial, administrative or any other action or proceeding involving or against SAL or SAL's Assets or proceeds thereof, or seeking to recover a claim or enforce any judicial, quasi-judicial, regulatory, administrative or other judgment, assessment, order, security interest, lien or arbitration award against SAL or SAL's Assets or proceeds thereof; the SAL Administrators have the exclusive right and power to defend any actions against any of the SAL or any of SAL's Assets; and

- f. the SAL Administrators have the right and power to issue subpoenas to examine witnesses and require the production of documents and information concerning SAL's assets, affairs, rights, obligations or liabilities; and it is further

**ORDERED**, that any and all restraints against the continuation and maintaining of an action entitled, *Tawil, et al. v. Spitzer, Steinberg, E&S Development and Properties, LLC, Nashville Properties LLC, Abraham Poznanski, SOVA Management, LLC, Armand Lasky, 401 Church Street, LLC, AEL Church Street and John Does A through C* (Supreme Court, New York County, Civil Action No. 652720/2011 (the "**Tawil Action**"), and against all the defendants named therein, shall cease and no longer be in effect as of March 3, 2015, without prejudice to (1) Petitioners' right to apply by motion for a further extension of the stay of the Tawil Action for cause shown; or (2) the right of any party to the Tawil Action seeking to amend this Order including the right of the Plaintiffs in the Tawil Action to renew their motion for relief of the stay prior to March 3, 2015, for cause shown; and it is further

**ORDERED**, that notwithstanding any rules or orders of any court to the contrary, in view of the tolling effects of the TRO, on behalf of SOVA Management, LLC, Petitioners shall be entitled to file (i) a motion in the Tawil Action for reargument or reconsideration of the Supreme Court Order, provided that such motion is filed on or before March 23, 2015, and (ii) a notice of appeal from the Supreme Court Order, provided that the Notice of Appeal is filed on or before March 30, 2015; but nothing herein requires the Petitioners to take such action, and all parties reserve their rights as to the forum to resolve any issues between the parties in the Tawil Action; and it is further

**ORDERED**, that if Petitioner files a motion in the Tawil Action for reargument and reconsideration, of the Supreme Court's Decision and Order dated September 29, 2014, prior to

the expiration of the stay and restraints applicable to the Tawil Action pursuant to this Order, the Plaintiffs in the Tawil Action may proceed at such time with their motion for reargument and reconsideration of such Decision and Order; and it further

**ORDERED**, that the Notice of Appeal and Pre-Argument Statement previously served and filed by Plaintiffs in the Tawil Action is hereby deemed to have been duly and properly served and filed; and it is further

**ORDERED**, that in the event that Petitioners serve a subpoena pursuant to Bankruptcy Rule 2004 that parties in the Tawil Action contend is not permissible because it seeks discovery that should be governed by State Court discovery rules applicable in the Tawil Action, the parties to the Tawil Action reserve their right to seek relief with respect to such subpoenas, and the Petitioners reserve all rights to oppose that relief and to defend the issuance of such subpoenas; and it is further

**ORDERED**, that notwithstanding any other provision hereof, unless there is a further order of this Court upon application by the SAL Administrators, this Order shall not apply to any action for foreclosure commenced by MSCI 2007 HQ 13 Merritt Crossing LLC ("MSCI") against SOVA Merritt, LLC, but the SAL Administrators shall retain the right to seek such relief and to defend against such an action; and it is further

**ORDERED**, that nothing in this Order shall prevent Abraham Poznanski from (1) defending (x) himself personally or (y) an entity of which he is an owner (but excluding for purposes of this paragraph, however, SAL and SAL Assets as defined above), in any legal action against him, which defense may include, without limitation, asserting affirmative defenses, cross-claims, or counterclaims, each as against any person or entity (but excluding for purposes of this paragraph, however, the SAL Administrators, SAL and SAL Assets as defined above), or

(2) participating in any arbitration commenced against (x) himself personally or (y) any entity of which he is an owner (but excluding for purposes of this paragraph, however, SAL and SAL Assets as defined above), which participation may include, without limitation, asserting affirmative defenses, cross-claims, or counterclaims, each as against any person or entity (but excluding for purposes of this paragraph, however, the SAL Administrators, SAL and SAL Assets as defined above); and it is further

**ORDERED**, that any notice requirements specified in section 1514 of the Bankruptcy Code regarding notice to creditors for the Debtor are waived due to the nature of the relief being sought and the expectation that no creditor will need to file any claim or appear in any matter before the Court; and it is further

**ORDERED**, that this Court shall retain jurisdiction with respect to the enforcement, amendment, or modification of this Order; and it is further

**ORDERED**, that entry of this Order, as opposed to the Court's having "So-Ordered" the record at the hearing on December 4, 2014, shall be deemed the Order of this Court for appellate purposes; and it is further

**ORDERED**, that, notwithstanding anything to the contrary in any of this Order, its Exhibit 1, or the Court's order dated October 31, 2014, including without limitation, any provision in any of same restricting any party from taking action with respect to SAL's Assets (as defined above) or granting the SAL Administrators the authority to manage SAL's Assets (as defined above), (i) the Court makes (and has made) no findings of facts and reaches (and has reached) no conclusions of law that determine what assets, including those compromising "SAL's Assets" (as defined above), are owned by SAL, and what management rights exist with respect to such assets but for entry of this Order, (ii) absent further Order of this Court, any

discovery taken or to be taken from Abraham Poznanski pursuant to any subpoena issued pursuant to this Order or the Court's October 31, 2014, Order shall be used solely by the SAL Administrators in the carrying out of their duties; and (iii) all parties reserve whatever rights they may have to seek a protective order with respect to any subpoena issued on behalf of the SAL Administrators; and it is further

**ORDERED**, that this Order shall be served by U.S. mail, first class postage prepaid, or by overnight courier, or by electronic transmission, or by facsimile transmission upon (a) the Office of the United States Trustee; (b) parties or counsel of record for all parties against whom the SAL Administrators seek relief pursuant to sections 1517, 1520, 1521 of the Bankruptcy Code; (c) the debtor pursuant to Bankruptcy Rule 2002(q); and (d) all persons or bodies authorized to administer foreign proceedings of the debtor pursuant to Bankruptcy Rule 2002(q), and it is further

**ORDERED**, that service in accordance with this Order shall constitute adequate and sufficient service and notice.

Dated: New York, New York  
December 17, 2014

/S/ Shelley C. Chapman  
HON. SHELLEY C. CHAPMAN  
UNITED STATES BANKRUPTCY JUDGE

***APPROVED AS TO FORM***

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*Counsel for the Nashville Plaintiffs*

# Exhibit 1

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

SOVEREIGN ASSETS LTD. AND GUY GISSIN,  
Debtor in Foreign Proceeding.

Case No. 14-13009 (scc)  
New York, New York  
December 4, 2014  
4:02 p.m. - 4:34 p.m.

TRANSCRIPT OF PART 2 OF HEARING ONLY

- 14-13009-SCC SOVEREIGN ASSETS LTD.  
AND GUY GISSIN, CHAPTER 15 -

HEARING OF PRELIMINARY INJUNCTION; AND  
DOC #1 CHAPTER 15 PETITION FOR RECOGNITION OF  
FOREIGN MAIN PROCEEDING  
BEFORE THE HONORABLE SHELLEY C. CHAPMAN  
UNITED STATES BANKRUPTCY JUDGE

A P P E A R A N C E S :

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Gissin and ADV Rami  
Kogon, Special  
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1 A P P E A R A N C E S :

2 *For MSCI 2007-HQ13* JEFFREY D. VANACORE, ESQ.  
3 *Merritt Crossing LLC:* GARY F. EISENBERG, ESQ.  
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10 *(Proceedings recorded by electronic sound recording)*  
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In re Sovereign Assets Ltd. and Guy Gissin - 12/4/14

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1 THE COURT: All right, let me give you a bench  
2 decision. Before the Court is the verified petition filed by  
3 Petitioners ADV Guy Gissin and ADV Rami Kogon, in their capacity  
4 as Special Administrators of Sovereign Assets Ltd. or SAL,  
5 seeking recognition of the Israeli liquidation proceeding of SAL  
6 as a foreign main proceeding under Chapter 15 of the Bankruptcy  
7 Code and granting such further relief as may be appropriate. In  
8 support of their verified petition, Petitioners submitted the  
9 declaration of Mr. Gissin and the declaration of Mr. Kogon.

10 The second matter before the Court is the motion of  
11 Messrs. Gissin and Kogon seeking a preliminary injunction, which  
12 motion was filed on October 31, 2014 in the form of an  
13 application for ex parte relief.

14 After a hearing on October 31, 2014, the Court entered  
15 an order to show cause with a temporary restraining order, and  
16 scheduled the hearing on the motion for a preliminary injunction  
17 for November 20, 2014. By order dated November 17, 2014, the  
18 Court continued by consent it's temporary restraining order to  
19 and including December 3, 2014, which on November 17, the order  
20 set as the date for both the recognition hearing and the  
21 rescheduled preliminary injunction hearing in this case.

22 The temporary restraining order which has been  
23 extended on consent until December 4, 2014 prevents parties  
24 from, among other things, taking actions or continuing  
25 litigation with respect to the U.S. subsidiaries of SAL that may

In re Sovereign Assets Ltd. and Guy Gissin - 12/4/14

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1 interfere with the administration of the SAL liquidation  
2 proceeding in Israel.

3 As stated in the verified petition, in connection with  
4 marshalling SAL's assets and administering the SAL liquidation  
5 proceeding, the Petitioners seek recognition of the SAL  
6 liquidation proceeding in order to investigate the status and  
7 disposition of SAL's assets in the United States and pursue  
8 recovery thereof. Petitioners request that the Court one,  
9 recognize the SAL liquidation proceeding as a foreign main  
10 proceeding, Or, in the alternative, as a foreign non-main  
11 proceeding.

12 Two, recognize the Petitioners as the foreign  
13 representatives of SAL within the meaning of Section 101(24) of  
14 the Bankruptcy Code. Three, grant discovery relief to assist  
15 the SAL liquidators in connection with administration of the SAL  
16 liquidation proceeding. And four, by the motion seeking  
17 provisional relief for a preliminary injunction, grant  
18 preliminary and permanent injunctive relief to protect SAL's  
19 assets in the United States.

20 On November 20, 2014, objections to recognition and to  
21 entry of a preliminary injunction were filed by one, Abraham  
22 Poznanski, together with the affidavit of Mr. Poznanski in  
23 support of his objection, and two, a group of state court  
24 plaintiffs self described as the Nashville Plaintiffs, together  
25 with the declaration of Mr. Lawrence Rosenstock, in support of

In re Sovereign Assets Ltd. and Guy Gissin - 12/4/14

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1 their objection. A limited objection and reservation of rights  
2 with respect to the temporary restraining order was also filed  
3 by MSCI 2007-HQ13 Merritt Crossing LLC, the holder of certain  
4 loan documents executed and delivered by Sova Merritt LLC.

5 On December 1, 2014, the Petitioners filed their reply  
6 memorandum of law, (A) in support of the verified petition under  
7 Chapter 15 and the motion seeking provisional relief for a  
8 preliminary injunction, and (B) in reply to all objections  
9 filed, together with the reply declaration of Mr. Gissin.

10 On December 3, 2014, the Court held a status  
11 conference and the parties commenced a limited portion of the  
12 recognition hearing with the live testimony of Mr. Gissin, who  
13 was cross examined by counsel to Mr. Poznanski, and also  
14 examined on redirect by counsel to the special administrators.  
15 Mr. Gissin was an articulate credible witness, who displayed a  
16 thorough familiarity with the facts and circumstances of SAL, of  
17 these proceedings, and of Israeli law having served as a  
18 liquidator on many previous occasions. Each of the filed  
19 declarations was admitted into evidence, along with certain  
20 additional trial exhibits numbered 6 through 22. No party  
21 elected to call any additional live witnesses. On December 4,  
22 2014, the Court heard extensive oral argument.

23 Background. The Court assumes familiarity with the  
24 background of this proceeding, but will provide certain key  
25 facts for the purposes of this bench decision. SAL, an Israeli

In re Sovereign Assets Ltd. and Guy Gissin - 12/4/14

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1 based real estate firm, is a public company operating under the  
2 laws of Israel, and registered with the Tel Aviv Stock Exchange.  
3 SAL's primary business has been to invest in real estate in the  
4 United States through other entities in the United States that  
5 it owns in whole or in part.

6 On May 21, 2007, SAL raised 50 million Israeli shekels  
7 by selling bonds exclusively in Israel in order to buy real  
8 estate in the United States. Aurora Fidelity Trust Company was  
9 appointed Indenture Trustee for the bondholders. The funds were  
10 used to acquire through one or more U.S. entities real property  
11 located in Milford, Connecticut and Nashville, Tennessee.

12 Beginning in 2007, Mr. Poznanski gained control of a  
13 majority of SAL's shares and became its largest shareholder and  
14 chief executive officer. Among the many accusations,  
15 allegations and law suits related to or involving Mr.  
16 Poznanski's ownership, control and operation of SAL and its  
17 affiliates, as to which the Court makes no findings in this  
18 decision, Mr. Poznanski has been accused of improperly (1)  
19 restructuring the interest of Sova Management LLC, an indirect  
20 subsidiary of SAL, and 401 Church Street, LLC, the entity that  
21 owns the Nashville property; and (2) transferring ownership of  
22 Sova Merritt LLC and Sova Management LLC, both indirect  
23 subsidiaries of SAL from Sova Holdings, Inc., a wholly owned  
24 subsidiary of SAL, to an entity under his control, all in  
25 violation of his fiduciary duties.

In re Sovereign Assets Ltd. and Guy Gissin - 12/4/14

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1           The Court will not describe in detail the actions  
2 pending in both the New York Supreme Court and the Israeli  
3 District Court with respect to these and other related  
4 allegations, but notes that there are several actions currently  
5 pending.

6           Discussion. (1) Recognition. Section 1517. Both Mr.  
7 Poznanski and the Nashville Plaintiffs object to recognition on  
8 the basis that the requirements of Section 1517 of the  
9 Bankruptcy Code have not been met. Section 1517 of the  
10 Bankruptcy Code provides that the Court shall enter an order  
11 granting recognition if the foreign proceeding for which  
12 recognition is sought, (1) is a foreign main proceeding or  
13 foreign non-main proceeding as defined in Section 1502 of the  
14 Bankruptcy Code; (2) the foreign representative is a person or  
15 body; (3) the petition meets the requirements of Section 1515 of  
16 the Bankruptcy Code. Sections 2 and 3 are not in dispute here.

17           Section 1502(4) defines a "foreign main proceeding" as  
18 a foreign proceeding pending in the country where the debtor has  
19 the center of its main interests, which is often referred to as  
20 the Debtor's COMI. Mr. Poznanski argues that SAL is a shell  
21 company, which other than being formed in Israel and raising  
22 money there through a single bond issuance has no other ongoing  
23 business in that country.

24           At the time of the commencement of the Israeli  
25 liquidation proceeding, SAL had no employees in Israel, and had

In re Sovereign Assets Ltd. and Guy Gissin - 12/4/14

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1 an office in Israel that was subsequently transferred to the  
2 Offices of Mr. Gissin. Mr. Poznanski asserts that all of SAL's  
3 assets are located in the United States, including its offices,  
4 subsidiaries, real estate, and managers. For these reasons, he  
5 argues that Israel cannot be SAL COMI.

6           They Court finds that the Israeli liquidation  
7 proceeding of SAL is a foreign main proceeding within the  
8 meaning of Section 1502(4) because SAL's COMI has at all  
9 relevant times been located in Israel. SAL was organized under  
10 the laws of Israel. It is a public company listed with the Tel  
11 Aviv Stock Exchange, and subject to its rules. Its office and  
12 exclusive place of raising funds were located in Israel. Many  
13 of its known creditors are in Israel. And it was managed and  
14 operated in Israel prior to its liquidation. And is currently  
15 operated under its liquidation proceedings in Israel.

16           Even if SAL had no functioning office in Israel as of  
17 the commencement of its liquidation proceeding, courts have held  
18 that the sites of the debtor's liquidation activities can alone  
19 be considered as part of the COMI analysis. See In re Suntech  
20 Power Holdings Company Ltd., 2014 Westlaw 6152761 \*24 (Bankr.  
21 S.D.N.Y. 11/17/14.)

22           No party disputes that the Petitioners have been  
23 operating SAL's liquidation activities in Israel, including  
24 conducting interviews of SAL's former employees and board  
25 members searching for assets and opening a bank account. Both

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1 Mr. Poznanski and the Nashville Plaintiffs attempt to rely on  
2 Judge Trust's decision in In Re Gold & Honey, Ltd., 410 B.R. 357  
3 (Bankr. E.D.N.Y. 2009) to argue that Petitioners have not  
4 demonstrated that SAL's Israel proceeding is collective in  
5 nature, and thus, it does not qualify as a foreign proceeding.  
6 The facts in that case are in apposite.

7 Gold & Honey involved a receivership proceeding  
8 commenced by a single secured creditor that did not require the  
9 receiver to consider the rights and obligations of all creditors  
10 and was not, the court determined, collective in nature. The  
11 SAL proceeding, in contrast, is a liquidation proceeding that is  
12 a collective proceeding, not a receivership that was commenced  
13 by an indenture trustee on behalf of all bondholders and other  
14 creditors, and is as described in the verified petition for  
15 "collecting and liquidating of SAL's assets and to pay claims of  
16 creditors pursuant to the rules of Israeli law." Verified  
17 Petition at Paragraph 86. Accordingly, these arguments have no  
18 merit.

19 B. Section 109(a). The Nashville Plaintiffs next  
20 argue that SAL cannot satisfy the requirements of Section 109(a)  
21 of the Bankruptcy Code. They argue that shares in SAL's  
22 American subsidiaries, without more, are insufficient as a  
23 matter of law to confer jurisdiction on this Court.  
24 Particularly because the Nashville Plaintiffs allege SAL's  
25 ownership interest in the subsidiaries may be located in Israel,



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1 rather than in the United States.

2           Section 109(a) of the Bankruptcy Code provides that  
3 notwithstanding any other provision of this Section, only a  
4 person that resides or has a domicile, a place of business, or  
5 property in the United States, or municipality may be a debtor  
6 under this title. As Petitioners point out, there is no  
7 sufficiency requirement under Section 109. SAL has demonstrated  
8 that it has property in the United States at least in the form  
9 of shares in its American subsidiaries, at least one of which is  
10 a Delaware corporation.

11           Under Delaware law regardless of where the  
12 certificates or the owner are located, the sites of ownership of  
13 the capital stock of Delaware corporations is regarded as being  
14 in Delaware. Accordingly, the equity in SAL's American  
15 subsidiaries can be considered property of SAL in the United  
16 States.

17           Petitioners also correctly point to potential causes  
18 of action against Mr. Poznanski and others which may be asserted  
19 in the United States in the future. And this Court has held  
20 that claims and causes of action can constitute property for  
21 purposes of Section 109. See In re Octavio Admin. Pty Ltd.,  
22 511 B.R. 361, 369-70 (Bankr. S.D.N.Y. 2014). The requirements  
23 of Section 109(a) have accordingly been satisfied.

24           C. Section 1506. Mr. Poznanski asserts that  
25 recognition of the Israeli liquidation proceeding of SAL as a

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1 foreign proceeding should not be permitted pursuant to Section  
2 1506 of the Bankruptcy Code. In support of this argument, Mr.  
3 Poznanski argues that the claims against him have already been  
4 litigated or are currently being litigated in other courts, and  
5 recognition of the SAL liquidation proceeding would not only  
6 duplicate such suits, but involve end-run around the previous  
7 orders issued in the action pending in the New York Supreme  
8 Court. And would thus be manifestly inconsistent with U.S.  
9 public policy.

10 Mr. Poznanski also alleges a conflict of interest on  
11 the part of the Petitioners in serving as the administrators of  
12 SAL's liquidation proceeding in Israel alleging that Mr. Kogon  
13 is a former counsel to Mr. Edward Cohen, one of the bondholders  
14 who commenced the SAL's liquidation proceeding, together with  
15 the indenture trustee, and that Mr. Gissin is former counsel to  
16 the bondholders themselves. It is not at all clear that these  
17 allegations are accurate. Moreover, as already indicated, no  
18 such objection was lodged with the Israel court at the time of  
19 Petitioners appointment.

20 All relief under Chapter 15 is subject to the limits  
21 in Section 1506 of the Bankruptcy Code, which permits a court to  
22 decline to take any action, including granting additional relief  
23 pursuant Section 1521, or providing additional assistance  
24 pursuant to Section 1507 of the Bankruptcy Code if such action  
25 would be "manifestly contrary" to the public policy of this

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1 country. See In re Toft, 453 B.R. 193, citing 11 U.S.C. Section  
2 1506; In re Rede Energia, 515 B.R. 69, 91-92 (Bankr. S.D.N.Y.  
3 2014).

4 Specifically, Section 1506 of the Bankruptcy Code  
5 provides "that nothing in this Chapter prevents the court from  
6 refusing to take an action governed by this Chapter if the  
7 action would be manifestly contrary to the public policy of the  
8 United States. However, the public policy exception is drafted  
9 in narrow terms and the few reported cases that have analyzed  
10 Section 1506 at length recognized that it is to be applied  
11 sparingly. In re In re Toft, 453 B.R. 193. See also In re  
12 Metcalfe, 421 B.R. 697. The key determination required under  
13 Section 1506 is whether the procedures used in the foreign  
14 jurisdiction meet our fundamental standards of fairness.

15 Mr. Poznanski has presented no facts that demonstrate  
16 that the Israel SAL liquidation proceeding is manifestly  
17 contrary to U.S. public policy, or that the Israeli Companies  
18 Law or other Israeli laws are manifestly contrary to U.S.  
19 Bankruptcy Law. Israeli Bankruptcy Law meets our fundamental  
20 standards of fairness. And to use Judge Gropper's formulation,  
21 accords with the course of civilized jurisprudence.

22 With respect to certain events that occurred in the  
23 pending New York Supreme Court or Israeli District Court  
24 actions, the Court finds that even if the Court were to agree  
25 entirely with Mr. Poznanski's narrative with respect to these

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1 actions, and it does not, these other pending proceedings are  
2 irrelevant as to whether or not the SAL liquidation proceeding  
3 should be granted recognition under Chapter 15. As Petitioners  
4 state in their reply "the liquidation proceeding merely seeks  
5 the liquidation of SAL for the benefit of all creditors no  
6 matter what the prior history of disputes between shareholders  
7 and no matter what the reason liquidation is necessary. Reply  
8 at 20-21.

9           With respect to the alleged conflict of interest of  
10 the Petitioners in serving as administrators of the Israel  
11 liquidation proceeding, and as foreign representatives in this  
12 Court, Mr. Poznanski had a full and fair opportunity to raise  
13 this issue before the Israeli District Court and declined to do  
14 so.

15           After their appointment as provisional liquidators on  
16 March 24, 2014, Petitioners provided public notice of the  
17 commencement of the SAL liquidation proceeding and the  
18 opportunity to object before the hearing date of July 7, 2014.  
19 In addition to providing notice by publication, Petitioners also  
20 sent Mr. Poznanski and his counsel direct notice of the  
21 proceedings. Mr. Poznanski filed no objection to the Israeli  
22 liquidation proceeding or to the appointment of the Petitioners  
23 as administrators. As he did not raise any issue in the proper  
24 forum to do so, Israel, the Court will not permit Mr. Poznanski  
25 to attempt to collaterally attack the Israeli District Court

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1 orders here.

2           On this point, the Court also observes that it common  
3 in U.S. courts for an estate fiduciary to assume the role of the  
4 trustee of an estate with which he or she is already familiar in  
5 order to take advantage of such parties' institutional knowledge  
6 of the facts of the case which may have been the case here.  
7 Moreover, Mr. Poznanski and all parties in interest in this  
8 Chapter 15 case and in the Israeli liquidation proceeding enjoy  
9 full due process rights to complain about the ongoing conduct of  
10 these proceedings if they so desire. For all of these reasons,  
11 the public policy exception reflected in Section 1506 does not  
12 provide a basis for denial of recognition of the SAL liquidation  
13 proceeding, the motion for preliminary injunction.

14           Petitioners argue that compelling cause exists to  
15 grant their motion to continue the provisional relief granted to  
16 Petitioners by the October 31, 2014 temporary restraining order.  
17 Mr. Poznanski and others, it is alleged, are taking unauthorized  
18 clandestine actions that may diminish or may have already  
19 diminished the assets of SAL and their value, including entering  
20 into transactions to change the ownership of SAL subsidiaries  
21 and move valuable assets out of the SAL chain of family of  
22 entities. Such transfers of ownership interest may be difficult  
23 or impossible to reverse.

24           Petitioners also state that Mr. Poznanski has  
25 heretofore refused all requests prior to and during the SAL

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1 liquidation proceeding to turn over all information and  
2 documents in his possession concerning SAL and SAL's assets.  
3 And has heretofore refused all demands to cease and desist  
4 acting without the authority of SAL's board. Petitioners argue  
5 convincingly that a preliminary injunction is necessary to halt  
6 all such actions and will permit Petitioners to conduct an  
7 investigation of these alleged events and of the state of  
8 ownership of SAL's assets in order to determine what, if any,  
9 illegal action to pursue and how to defend against any pending  
10 litigation.

11 Pursuant to Section 1519(a) of the Bankruptcy Code  
12 from the time of filing of a petition for recognition until the  
13 court rules on the petition, the Court may at the request of the  
14 foreign representative, where relief is urgently needed to  
15 protect the assets of the debtor or the interest of the  
16 creditors, grant relief of a provisional nature, including, one,  
17 staying execution against the debtor's assets.

18 Upon recognition, such relief may be extended pursuant  
19 to Section 1521(a)(6). For the Court to grant injunctive relief  
20 Petitioners are required to show (A) they will suffer  
21 irreparable harm in the absence of the injunction, and (B)  
22 either one, likelihood on the success of the merits, or two,  
23 sufficiently serious questions going to the merits to make them  
24 a fair ground for litigation and a balance of hardship tipping  
25 decidedly in their favor. See e.g. Zervos v. Verizon New York,

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1 Inc., 252 F.3d 163, 172 (2d Cir. 2001).

2           The Court finds that Petitioners have demonstrated  
3 that injunctive relief is warranted here and will grant their  
4 request for preliminary injunction. While Mr. Poznanski argues  
5 that Petitioners have failed to meet their burden to demonstrate  
6 the need for injunctive relief, the Court has been presented  
7 with no evidence to controvert the allegations of Petitioners  
8 regarding Mr. Poznanski's alleged actions with respect to SAL's  
9 assets in 2014. Nor has Mr. Poznanski, who did not appear for  
10 either day of the hearing, agree to cease taking such actions.

11           Taken at face value, Petitioners' largely  
12 uncontroverted allegations regarding the transfer of ownership  
13 of the subsidiaries of SAL, which may divest or may have  
14 divested SAL of valuable assets, together with the prospect that  
15 continuance and conclusion of the Nashville litigation may  
16 significantly negatively impact the value of SAL's remaining  
17 assets are sufficient to demonstrate that SAL's assets may be  
18 irreparably harmed if the Nashville litigation is not stayed or  
19 other actions against SAL's assets are not enjoined.

20           With respect to the Nashville litigation, the Court  
21 will extend the stay of that litigation only through and  
22 including March 2, 2015 without prejudice (A) to the rights of  
23 the Nashville Plaintiff's to renew their motion for relief from  
24 the stay prior to such time or cause. Or (B) the right of the  
25 Petitioners to seek a further extension of the stay.

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1           While the objectors have also contended that the  
2 requested injunctive relief cannot extend to the non-debtor  
3 subsidiaries of SAL, the Court overrules this objection. This  
4 Court has held on numerous occasions that the protections of the  
5 automatic stay under Section 362(a) of the Bankruptcy Code, can  
6 indeed be extended to stay actions against non-debtor  
7 subsidiaries in certain circumstances. See e.g. In re Raz Ofer,  
8 Adversary Proceeding 13-1306, granting Chapter 7 Trustee's  
9 motion for TRO, extending to affiliates of the Debtor and  
10 stating that "the Trustee has shown at least serious issues  
11 going to his contention that the Debtor is milking assets out of  
12 the companies in which he has stock that affect the value of  
13 those companies and hence are interference with the assets of  
14 the Estate in violation of Section 362(a) (3)."

15           Based on the Court's holding in Raz Ofer and the  
16 principals and authorities cited by the Petitioners their reply  
17 papers, the Court finds that the specter of interference with  
18 assets of SAL through actions taken against its subsidiaries  
19 weighs in favor of extending the injunction to such entities.  
20 For all of the foregoing reasons, the petition for recognition  
21 is granted. The motion for injunctive relief is granted.

22           This record is so-ordered and the parties are directed  
23 to submit an order consistent with this bench decision.

24           MR. EISENBERG: Your Honor, I have a housekeeping  
25 matter I'd like to ask the Court about.



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1 THE COURT: Sure. The Connecticut action was  
2 specifically not mentioned because, as we had discussed  
3 previously on the record, the injunctive relief is not going to  
4 extend for the Connecticut issue.

5 MR. EISENBERG: That's what I wanted to clarify, Your  
6 Honor. Thank you very much.

7 MR. DEVORKIN: The Petitioners will want to order a  
8 copy, have a transcript --

9 THE COURT: Yes.

10 MR. EISENBERG: -- of the Court's decision.

11 THE COURT: What you can do is -- I've done -- let me  
12 explain a bit this procedure. For the sake of moving things  
13 forward, I not infrequently deliver a bench decision. I have  
14 text. It's not pretty. What I'd like is that the transcript,  
15 if you so desire, can be attached as Exhibit A to your order.  
16 And if you want to get the order on file, you can get the order  
17 on file and we can later add the transcript as an exhibit to  
18 your order. That's probably the easiest way to do it.

19 MR. DEVORKIN: That's fine, but --

20 THE COURT: Mr. Bensinger, does that -- you have a  
21 little bit of a quizzical look on your face.

22 MR. BENSINGER: No, no. That's fine, Your Honor. I  
23 was just thinking about the other comment that I wanted to  
24 address, which is the Court didn't put into the decision that  
25 was just read the scope of the injunction that we had discussed

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1 on the record.

2 THE COURT: Well, the --

3 MR. BENSINGER: That will be in the order then?

4 THE COURT: Yes.

5 MR. BENSINGER: Okay.

6 THE COURT: Yeah. I'm going to leave it to the two of  
7 you --

8 MR. BENSINGER: To work it out, or try to work it out.

9 THE COURT: Yes.

10 MR. BENSINGER: Okay.

11 THE COURT: To work out language that's sufficiently  
12 surgical --

13 MR. BENSINGER: Okay.

14 THE COURT: -- to address the concerns that you had  
15 indicated.

16 MR. BENSINGER: Okay. Thank you.

17 MR. ROSENSTOCK: Your Honor, just one point of  
18 clarification.

19 THE COURT: Yeah?

20 MR. ROSENSTOCK: Would that mean that the liquidator  
21 would be able, in the meantime if they decide to take steps to  
22 appear in the state court action, that they could do that  
23 between now and March?

24 THE COURT: Well, you're not stayed, and he's not. So  
25 if they decide they're going to proceed, you're entitled to

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1 respond.

2 MR. ROSENSTOCK: Right.

3 THE COURT: So, I assume that something -- that you  
4 will do something to officially end the stay if you decide to  
5 take action. You can't act can't and he's stayed.

6 MR. DEVORKIN: No, I understand that. And there's  
7 certain things that I want to talk to Mr. Rosenstock about in  
8 terms of making sure that the state court -- that our time to do  
9 certain things is running --

10 THE COURT: Right.

11 MR. DEVORKIN: -- and I want to make sure that's  
12 preserved. I may add some language to the order when I submit  
13 it --

14 THE COURT: Right.

15 MR. DEVORKIN: -- about that.

16 THE COURT: Right. But the point is basically, it's  
17 not --

18 MR. DEVORKIN: I understand.

19 THE COURT: Yeah. I don't think we're -- it's not a  
20 game of gotcha.

21 MR. DEVORKIN: No.

22 MR. ROSENSTOCK: Right. No, no.

23 THE COURT: You're not --

24 MR. ROSENSTOCK: No, no, I'm not looking for that.

25 THE COURT: Right.

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1 MR. ROSENSTOCK: I'm just want to get it teed up.

2 THE COURT: Sure.

3 MR. ROSENSTOCK: So when --

4 THE COURT: If the liquidators decide they're ready to  
5 roll and they start taking action, you're going to be able to  
6 respond. So something -- you'd have to formally lift the stay;  
7 file a piece a paper.

8 MR. DEVORKIN: Of course.

9 THE COURT: Something that --

10 MR. DEVORKIN: Of course.

11 MR. ROSENSTOCK: Right. Right. Okay.

12 THE COURT: -- takes the handcuffs off of you.

13 MR. ROSENSTOCK: Okay. Very good. Thank you.

14 THE COURT: Okay.

15 MR. DEVORKIN: I would think at that point we'd have  
16 some document we mutually agree to.

17 MR. ROSENSTOCK: Yeah.

18 THE COURT: Right. Right.

19 MR. ROSENSTOCK: Right. Okay.

20 MR. DEVORKIN: My questions were slightly different  
21 though. One, would it be possible to get a one-page order from  
22 Your Honor that says for reasons stated on the record and to be  
23 memorialized in a further order that the injunction is granted  
24 or the TRO is extended so that --

25 THE COURT: I'm going to so-order the record right

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1 now, this moment.

2 MR. DEVORKIN: All right.

3 THE COURT: So, that it is.

4 MR. DEVORKIN: All right.

5 THE COURT: And then you're going to -- I don't want  
6 to have an order and then another order.

7 MR. DEVORKIN: Okay.

8 THE COURT: So, I'm so-ordering the record, and then  
9 you'll work out an order because I want you to take your time to  
10 make sure you get it right. And then that will be the order for  
11 appellate purposes.

12 MR. DEVORKIN: Fine.

13 THE COURT: Or whatever other purposes.

14 MR. DEVORKIN: The other question I was going to ask  
15 first is that what's interesting is the argument was I don't  
16 want a transcript of that, I want a transcript of the Court's  
17 decision. And my experience with the reporting service  
18 sometimes is they insist

19 THE COURT: We have a --

20 MR. DEVORKIN: -- that I have to get everything for  
21 the whole day. It gets to be very expensive.

22 THE COURT: I've had two separate sessions. You can  
23 just get the last half hour.

24 MR. DEVORKIN: All right. We'll do that.

25 THE COURT: I don't know administratively what it

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1 takes to do that. It's either above or below my pay grade.

2 MR. DEVORKIN: I'm just saying --

3 THE COURT: But yes, I hear you.

4 MR. DEVORKIN: More than once, I've heard all or  
5 nothing.

6 (Cross-talk.)

7 THE COURT: We'll call it Part 2.

8 MR. DEVORKIN: Part 2.

9 THE COURT: And you'll be able to get it as a separate  
10 transcript.

11 MR. DEVORKIN: All right.

12 THE COURT: Other questions?

13 MR. CAVALIERE: Yes, Your Honor. Rocco Cavaliere with  
14 Tarter Krinsky, co-counsel with Mr. Rosenstock. We look forward  
15 to working with Mr. Devorkin on a proposed order. And we're  
16 hoping that we'll resolve any issues. But is there going to be  
17 -- to the extent that we can't, should we send a letter to the  
18 Court or have another subsequent hearing?

19 THE COURT: Yeah. I mean, I don't --

20 MR. CAVALIERE: How do we deal with that? You don't  
21 like competing orders.

22 THE COURT: I don't like competing orders.

23 MR. CAVALIERE: Yeah.

24 THE COURT: So, I would like you to exercise your best  
25 efforts to come to language. What you might do is that if for

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1 some reason you can't agree on some finite language, you can  
2 each give me your competing versions and a brief recitation of  
3 why you think your right.

4 MR. CAVALIERE: Okay.

5 THE COURT: I'm not going to have another hearing.

6 MR. CAVALIERE: No.

7 THE COURT: I'll just decide.

8 MR. DEVORKIN: Okay.

9 MR. CAVALIERE: Okay. That's fine. Thank you.

10 THE COURT: Okay? But I think we all understand the  
11 concepts, and I'm pretty confident you're going to be able to  
12 work it out. All right? Very well done. Thank you.

13 MR. DEVORKIN: Thank you, Your Honor.

14 MR. CAVALIERE: Thank you, Your Honor.

15 MR. ROSENSTOCK: Thank you, Your Honor.

16 THE COURT: To be clear, I mean I think that that lays  
17 it out well enough. I reserve my rights to write a fuller more  
18 detailed opinion if I decide under the facts and circumstances  
19 it's warranted, but it's not my present intention. All right?  
20 Thank you very much.

21 ALL COUNSEL: Thank you very much, Your Honor.

22 THE COURT: Have a good evening. Thank you.

23 - o0o -

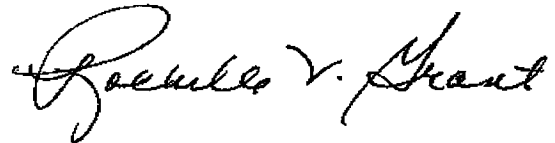
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CERTIFICATION

I, Rochelle V. Grant, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

Dated: December 6, 2014

A handwritten signature in cursive script that reads "Rochelle V. Grant". The signature is written in dark ink and is positioned above a horizontal line.

Signature of Approved Transcriber